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Hollow grounds by revenue – Need for rationalisation of Revenue's litigation approach

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Before the Mumbai Income Tax Appellate Tribunal in a company case report vide *Dy. CIT* v. *Ispat Infrastructure India Ltd.* [2025] 178 taxmann.com 694 (Mumbai - Trib.) [26-09-2025] the Revenue appealed against deletion of 10% disallowance of telephone and motor car expenses amounting to Rs. 28,400/- by the CIT(A), alleging potential personal use, which they claim is a "standard practice" in assessments.

In this connection the following ground of appeal is framed by the revenue before the Income Tax Appellate Tribunal:

> "Whether the CIT(A) was correct in deleting the disallowance of 10% of motor car and telephone expenses without considering the possibility of personal use, which is a standard practice in income tax assessments?"

The Commissioner (Appeals) in the previous instance removed the disallowance by stating that it was ad hoc and the assessee's books of account were duly maintained and accounted for/audited.

The Tribunal however remanded the matter with a direction to the company assessee to furnish all the details/submissions in respect of its claim of motor car and telephone expenses.

Such a direction is clearly unfair as there is no standard practice possible outside the provisions of the Act that can authorise ad hoc disallowance. The ITAT should have quashed the disallowance rather than remanding. The ground of appeal taken by revenue is hollow and deserve to be held as unfit. Remanding a case back for re-examination of minor expenses (already disclosed in audit reports/Tax Audit Form 3CD) is cost-inefficient and regressive as well as hollow exercise.

In Resending matters, the Act must draw a line somewhere on costs benefit indicators or litigation materiality framework built into the appellate process to avoid such futile exercises.

Section 268A should be made broader

Section 268A in an attempt empowers CBDT to issue circulars prescribing monetary thresholds for departmental appeals. Where the tax effect is below the monetary limits the appeals in such cases are not maintainable. Appeals are filed even where tax effect is marginal especially where deletion is granted by lower authorities. The current practice considers cumulative tax effect of issues in an order. A shift to individual ground-wise tax effect may be desirable — many minor/frivolous issues (like the one in this case) would not qualify for appeal. Looking at the past conduct of income tax authorities to challenge each and every relief/deletion in favour of taxpayer it is most desirable to redefine

the monetary limits for the purposes of section 268A based on tax effect on individual ground basis rather than on cumulative basis. This small act can reduce the fruitless litigation significantly and save lot of costs for the revenue.

Future circulars of the board need redefine tax effect and monetary limits with reference to each ground of appeal so that much of the grounds see exit after first stage only.

Food for thought

The attempt to pursue minor disallowances in corporate cases, without evidence and based on "standard practice," is not only legally weak, but also economically unsound. The ITAT should have quashed the disallowance rather than remanding. CBDT must reconsider the framing of monetary limits under Section 268A, making them ground-specific. Tax administration must focus on quality over quantity in litigation, promoting principled assessment practices, especially in the era of faceless assessments. Litigation should be a tool to ensure tax compliance, not a ritual to question every relief — especially when the cost of litigation exceeds the potential tax gain.

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